

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF NEW MEXICO  
3 UNITED STATES OF AMERICA,  
4                   Plaintiff,  
5           vs.                   NO: CR-15-4268 JB  
6 ANGEL DELEON, et al.,  
7                   Defendants.

8  
9           Transcript of excerpt of testimony of  
10                   SAMUEL GONZALEZ  
11                   May 4, 2018  
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1 THE COURT: All right. Mr. Beck, does the  
2 Government -- Mr. Castellano, does the Government  
3 have its next witness or evidence?

4 MR. CASTELLANO: Yes, Your Honor. The  
5 United States calls Samuel Gonzalez.

6 THE COURT: Mr. Gonzalez, if you'll come  
7 up and stand next to the witness box right in front  
8 of you. If you'll raise your right hand to the best  
9 of your ability, Ms. Solis, my courtroom deputy,  
10 will swear you in.

11 SAMUEL GONZALEZ,  
12 after having been first duly sworn under oath,  
13 was questioned, and testified as follows:

14 THE CLERK: Have a seat, please. State  
15 and spell your last name for the record.

16 THE WITNESS: Samuel Gonzalez.

17 THE COURT: Mr. Gonzalez, why don't you  
18 pull your chair up to the microphone as much as you  
19 can. And if you pull the microphone a little bit  
20 towards your mouth, that would be great. All right.

21 Mr. Gonzalez. Mr. Castellano.

22 MR. CASTELLANO: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MR. CASTELLANO:

25 Q. Good afternoon, Mr. Gonzalez.

1 A. Good afternoon.

2 Q. Can you tell the members of the jury  
3 whether you are, or ever have been, an SNM gang  
4 member?

5 A. I was an SNM Gang member.

6 Q. How did you become a member of that gang?

7 A. How did I become one?

8 Q. Yes.

9 A. I became one in 2000. I got brought in by  
10 a couple guys.

11 Q. Do you remember their names?

12 A. Before then, I was on probation, so I got  
13 brought in by Lino G, T-Bone, and I was blessed by  
14 Angel Munoz and Jacob Armijo.

15 Q. And just so it's clear, was that Jacob  
16 Armijo, known as Big Jake? Or was that Jacobo  
17 Armijo?

18 A. Jacobo.

19 Q. And which facility were you when that  
20 happened?

21 A. Las Cruces.

22 Q. Was that known as Southern New Mexico  
23 Correctional Facility?

24 A. Yes, sir.

25 Q. And at any point during the time you were

1 in did you ever have to earn your bones?

2 A. I did, but I didn't.

3 Q. Can you explain that?

4 A. When you get in, you're supposed to either  
5 stab or be involved in a murder or an assault. At  
6 the time, I didn't.

7 Q. So you -- is it fair to say you were never  
8 tasked with assaulting somebody to earn your bones?

9 A. Well, my name never came up.

10 Q. So it didn't happen?

11 A. No.

12 Q. You mentioned this happened in the  
13 Southern New Mexico Correctional Facility. How is  
14 it that you found yourself in prison? Was it for a  
15 conviction of some sort?

16 A. So I got out in 1999. On January 26th of  
17 2000, I got in a vehicular homicide.

18 Q. I'm going to show you here --

19 MR. CASTELLANO: Let me first admit this  
20 exhibit. Thank you. Your Honor, at this time I  
21 move the admission of Government's Exhibit 812.

22 THE COURT: Any objection from any of the  
23 defendants? Not hearing or seeing any, Government's  
24 Exhibit 812 will be admitted into evidence.

25 (Government Exhibit 812 admitted.)

1 BY MR. CASTELLANO:

2 Q. Okay. Mr. Gonzalez, I'm going to show you  
3 Government's Exhibit 812. That's what we've been  
4 referring to as a pen pack or a penitentiary packet.  
5 And I'm going to show you the fourth page of that  
6 exhibit. I want to ask you if, in 1996, you had a  
7 conviction for aggravated assault against a peace  
8 officer with a deadly weapon?

9 A. Yes, sir.

10 Q. And then did you also have a conviction  
11 for criminal damage to property over \$1,000?

12 A. Yes, sir.

13 Q. And at that time, using the telephone to  
14 terrify, intimidate, threaten, harass, or offend?

15 A. Yes.

16 Q. Did you plead no contest to aggravated  
17 assault against a household member?

18 A. I did.

19 Q. Turning to the next page, it looks like --  
20 just for clarification, let me go back one page.  
21 And is that an amended judgment?

22 A. Yes.

23 Q. Let me go to the next page and ask you if  
24 this is related to the same case on page 53592 on  
25 the bottom. Does this look like the same charges,

1 but the other document was just an amended document  
2 for this conviction?

3 A. Yes.

4 Q. Turning to page 53595 of that same  
5 exhibit, did you also plead guilty to trafficking by  
6 possession with intent to distribute cocaine?

7 A. I did, but that was in 1995.

8 Q. Turning to page 53598, did you have a  
9 conviction for the crime of forgery?

10 A. I did.

11 Q. And then on page 53601 of that same  
12 document, Exhibit 812, this is the crime you were  
13 telling us about, the homicide by vehicle?

14 A. Yes.

15 Q. Was that for a reckless type of driving?

16 A. Yes.

17 Q. And there was a child abuse charge?

18 A. I had my family with me.

19 Q. As a result of having your family, were  
20 you charged because a child was in the vehicle?

21 A. Yes.

22 Q. Do you remember how many years you were  
23 sentenced to as a result of that conviction?

24 A. They gave me 31 years and suspended six.  
25 So a total of 25 years.

1 Q. Have you been in prison ever since that  
2 time?

3 A. I've been in prison for 18 years and five  
4 months.

5 Q. About how much longer do you think you  
6 have before you're released?

7 A. Four years and a half.

8 Q. And if you complete any programs, might  
9 that sentence be shortened at all?

10 A. It can be.

11 Q. What type of program would shorten that  
12 sentence?

13 A. Well, I'm in the RPP Program.

14 Q. Can you explain what that program is to  
15 the members of the jury?

16 A. It's a program for being renounced. It's  
17 SNM Gang members or any gang members. While in that  
18 program, you have to debrief; you have to be  
19 legitimately away from the gang; they have programs  
20 for you to rehabilitate. And that's the reason why  
21 I would get time knocked off my sentence if I do  
22 good and complete all these programs.

23 Q. Now, were you ever charged in this case?

24 A. No.

25 Q. And at some point in, I believe, 2017 did



1 law enforcement approach you to see if you'd be  
2 willing to give a statement to them?

3 A. In 2017?

4 Q. Yes. Let me double-check my dates.

5 A. Yes.

6 Q. February 22nd of 2017?

7 A. Yes.

8 Q. And at that point, did you agree to give a  
9 statement to them?

10 A. I did.

11 Q. And when you entered the RPP Program, what  
12 year was that?

13 A. January of 2015.

14 Q. And when you entered that program, were  
15 you also required to give a statement?

16 A. Yes.

17 Q. What was the purpose of giving that  
18 statement?

19 A. To show the RPP and the administration  
20 that I was legitimately for the program; I was done  
21 with the gang.

22 Q. After you gave that statement, were you  
23 accepted into the program?

24 A. Not right away.

25 Q. About how long did it take?

1 A. I did this in May of 2014, and I didn't  
2 get accepted until January of 2015.

3 Q. Then where were you spending your time  
4 between the time you applied to the program and when  
5 you were accepted?

6 A. I was in Level 6.

7 Q. Is that PNM North?

8 A. I was at Las Cruces and PNM North and PNM  
9 South.

10 Q. Where were you housed on June 17th of  
11 2007?

12 A. I was housed in Las Cruces, SNMCF, blue  
13 pod.

14 Q. Sir, I'm going to show you a location  
15 history, which is Exhibit 814. I'm going to show  
16 you the second page. Do you see where I've  
17 underlined there where it says "Southern New Mexico  
18 Correctional Facility"?

19 A. Yes.

20 Q. And then it looks like November 28th of  
21 2006 until June 27th of 2007, it shows here Southern  
22 housing unit A-1? Was it housing unit 1-A?

23 A. Yeah, I just remember it being in blue  
24 pod. They changed it all up.

25 Q. Do you remember if you were in cell 107,

1 which I'm circling here?

2 A. Yes, I was.

3 Q. And at that time, was it an SNM housing  
4 unit?

5 A. Yes.

6 Q. I'm going to show you now Government's  
7 Exhibit 281. Does that diagram look familiar to  
8 you?

9 A. Yes.

10 Q. I'm circling here blue pod up above that  
11 yellow pod, into the upper right green pod. Does  
12 that look familiar?

13 A. Yes.

14 Q. And did you tell us that you were in the  
15 blue pod?

16 A. I was in blue pod.

17 Q. I'm now going to show you Government's  
18 Exhibit 247, and I'll ask you if you recognize  
19 what's in that exhibit?

20 A. It's blue pod.

21 Q. And is this where you were living?

22 A. Yes.

23 Q. Do you see your cell or your house on this  
24 exhibit?

25 A. I can't see very good on this.

1 Q. Do you have a little bit of a glare there?

2 A. I could see it up on that one at the top.

3 Q. I'm circling the second door from the  
4 right. Do you recall if that was 107? Or were you  
5 somewhere else?

6 A. That's it.

7 Q. I'm going to show you now Government's  
8 Exhibit 248. Is that just another view of the pod?

9 A. Yes.

10 Q. And finally, Exhibit 249. So I'm circling  
11 a couple of tables kind of in the center of the  
12 picture. Was that kind of a common area for you and  
13 the other inmates?

14 A. Yes.

15 Q. And then I'm basically drawing an arrow up  
16 some stairs. Was that the way to get upstairs to  
17 your cell?

18 A. Yes, sir.

19 Q. In June of 2007, did you know somebody  
20 named Freddie Sanchez?

21 A. I did.

22 Q. Let me show you Government's Exhibit 284.  
23 Do you recognize that person?

24 A. I do.

25 Q. Who is that?

1 A. That's Freddie Sanchez.

2 Q. Did you know him by any other names?

3 A. Fred Dawg.

4 Q. And do you recall Fred Dawg getting killed  
5 in the blue pod?

6 A. I do.

7 Q. What do you remember about how soon he got  
8 killed after he actually arrived in the pod?

9 A. He was there for a few days.

10 Q. And before he arrived, were you aware of  
11 whether or not he might be in harm's way if he was  
12 placed in that pod?

13 A. I did.

14 Q. What led you to believe that?

15 A. Because they brought -- someone from up  
16 North brought some paperwork down.

17 Q. Who was the person who brought the  
18 paperwork?

19 A. It was brought down by Kyle Dwyer. He was  
20 given paperwork by another inmate.

21 Q. And do you know what happened to the  
22 paperwork after Kyle Dwyer brought it?

23 A. He gave to it another inmate.

24 Q. Who was that person?

25 A. Benjamin Clark.

1 Q. And were you part of any discussions about  
2 that paperwork once it arrived?

3 A. No.

4 Q. Do you know what happened to the paperwork  
5 after Ben Clark had it?

6 A. It was shown to the other guys in the  
7 other pod.

8 Q. Can you explain to the jury how the  
9 paperwork travels from one pod to the next?

10 A. There's common doors. Paperwork could get  
11 slid through one pod; and then the other pod,  
12 someone would go slide it to the other pod  
13 underneath the door.

14 Q. Is that very hard to do?

15 A. No.

16 Q. I'm going to go back to Exhibit 281. Do  
17 you see this line between blue pod and yellow pod?  
18 I'm drawing a line at about 9:00, if this were a  
19 clock. Do you see that line that I drew there?

20 So is that basically a solid wall and then  
21 a door between blue pod and yellow pod?

22 A. Yes.

23 Q. I'm drawing the area from blue pod to  
24 yellow pod. Can the paperwork travel under that  
25 door to the next pod?

1 A. Yes, it can.

2 Q. And does the same thing apply to traveling  
3 from the yellow pod to the green pod?

4 A. Yes.

5 Q. When you say "paperwork," what are you  
6 referring to when you say "paperwork"?

7 A. Documentation of that person telling.

8 Q. And is that a problem within the SNM?

9 A. It is.

10 Q. Why?

11 A. You're not supposed to do it; you're not  
12 supposed to tell.

13 Q. Would that be considered a serious  
14 infraction of the SNM rules?

15 A. It is.

16 Q. And were you an SNM member at that time?

17 A. I was.

18 Q. Did the SNM have any rivals at that time?

19 A. Yeah, a few rivals.

20 Q. Was the Los Carnales gang one of those?

21 A. Yes.

22 Q. What about the Burquenos?

23 A. Yes.

24 Q. Did you know where the paperwork came  
25 from?

1 A. From the North.

2 Q. When you say "the North," what does that  
3 mean?

4 A. PNM, PNM North.

5 Q. How did you know that?

6 A. Just by what they told me.

7 Q. So were there discussions about this  
8 paperwork in the pod?

9 A. There was.

10 Q. And were these discussions before Freddie  
11 Sanchez was killed?

12 A. Yes.

13 Q. And so what did you learn about the  
14 paperwork?

15 MR. BLACKBURN: Objection, Your Honor;  
16 hearsay, foundation.

17 THE COURT: Is this going to come from  
18 people's conversations with him?

19 MR. CASTELLANO: It is, Your Honor. And I  
20 think the Court ruled on it.

21 THE COURT: Is this on the chart?

22 MR. CASTELLANO: It is. But we may want  
23 to approach.

24 THE COURT: Why don't we print out that  
25 chart. Y'all go ahead and approach.



1 (The following proceedings were held at  
2 the bench.)

3 THE COURT: Is it coming out a little  
4 differently than what it was in the 302?

5 MR. CASTELLANO: No, I wanted to make sure  
6 that I read the Court's ruling correctly before I  
7 ask this.

8 THE COURT: Do you have my chart?

9 MR. CASTELLANO: I do, Your Honor. It's  
10 one of the earlier ones that came out.

11 THE COURT: Which statement is it?

12 MR. CASTELLANO: Statement Number 62. And  
13 when we --

14 THE COURT: This is the operative one,  
15 though?

16 MR. CASTELLANO: Right.

17 THE COURT: I've only given you one of  
18 them, right?

19 MR. CASTELLANO: Yes.

20 THE COURT: Okay. What is he going to say  
21 about that?

22 MR. CASTELLANO: He's going to say what  
23 people told him about the paperwork, and how he knew  
24 where it came from.

25 THE COURT: So this is a little different

1 because -- okay, I see. All right. What is the  
2 question going to be?

3 MR. CASTELLANO: I'm going to ask him what  
4 the discussions were about the paperwork in the pod.

5 THE COURT: What's he going to say?

6 MR. CASTELLANO: I think he'll say that it  
7 came from Arturo Garcia, from what I remember.

8 THE COURT: He's going to say what?

9 MR. CASTELLANO: I believe he will say it  
10 came from Arturo Garcia, from the discussions.

11 THE COURT: That's what this one said, and  
12 I approved that. So if he doesn't say Arturo  
13 Garcia, then we may not be able to come within the  
14 co-conspirator statement.

15 MR. CASTELLANO: We may not. That's why I  
16 wanted to approach, because I know when I briefed  
17 62, it referred to an action, and I think the Court  
18 ruled.

19 THE COURT: But I also said associated  
20 statements approving the Sanchez murder, an approval  
21 that the statements made in furtherance. Let me  
22 turn that off, ask him from here, and see what he  
23 says. Do you want to?

24 MR. CASTELLANO: Sure.

25 (The following proceedings were held in

1 open court.)

2 THE COURT: All right. Mr. Castellano is  
3 going to ask his question from here. Do you want  
4 the question back?

5 The question you asked is, "And so what  
6 did you learn about the paperwork?"

7 And I guess the question here that maybe  
8 you should ask first, "Who told you about the  
9 paperwork?"

10 A. Who told me about the paperwork?

11 BY MR. CASTELLANO:

12 Q. Yes.

13 A. Nobody really told me about the paperwork.  
14 It's just -- I just knew it was there.

15 Q. And did you know who sent the paperwork  
16 from PNM down to Southern New Mexico Correctional  
17 Facility?

18 A. That was Kyle Dwyer, is the one that  
19 brought the paperwork. He had gotten it from a guy  
20 named Cheech.

21 Q. And did you know where Cheech got it from?

22 MR. BLACKBURN: Well, I'm going to object  
23 because that's going to call for hearsay, and it's  
24 not in the Court's ruling.

25 THE COURT: Why don't you just ask him,

1 did anybody specifically give him that information?

2 BY MR. CASTELLANO:

3 Q. Did anyone specifically give you that  
4 information?

5 A. At the time, Benjamin Clark.

6 THE COURT: I think that's within the  
7 scope of what I allowed, so I'll overrule the  
8 objection.

9 Anything else on that?

10 MR. CASTELLANO: Yes, and that would be  
11 where the paperwork originated from up North, before  
12 Cheech?

13 THE COURT: Go ahead and ask him if he  
14 knows. This will be a yes/no question, Mr.  
15 Gonzalez.

16 BY MR. CASTELLANO:

17 Q. If you know, Mr. Gonzalez, do you know  
18 where the paperwork was, before the person known as  
19 Cheech?

20 THE COURT: This is just a yes/no.

21 A. Yes.

22 THE COURT: Go ahead.

23 Q. Who was the person who told you that  
24 information?

25 A. That it came?

1 Q. Yes.

2 A. Benjamin Clark.

3 THE COURT: Okay. Keep going.

4 Q. Mr. Gonzalez, what did Mr. Clark tell you  
5 about who gave the paperwork to Cheech?

6 A. Arturo Garcia.

7 MR. BLACKBURN: Foundation.

8 THE COURT: Well, it came from that  
9 source, so we know where it came from. All right.

10 MR. CASTELLANO: Thank you, Your Honor.

11 THE COURT: All right. Mr. Castellano.

12 MR. CASTELLANO: Thank you, Your Honor.

13 BY MR. CASTELLANO:

14 Q. If you remember, about how long did this  
15 paperwork circulate before Mr. Sanchez was killed?

16 A. It circulated just right away. Once the  
17 guys saw it, it was given back.

18 Q. And about the time that Mr. Sanchez was  
19 killed, did anything happen to Benjamin Clark?

20 A. Yes. He got locked down.

21 Q. And what does that mean, to get locked  
22 down?

23 A. Going in Seg, segregation.

24 Q. And for segregation purposes, did he  
25 remain in the pod, locked in his cell? Or was he

1 moved to another location?

2 A. He was moved to another location.

3 Q. And did you see him get moved out?

4 A. Yes.

5 Q. And how close in time did he get moved out  
6 and did Mr. Sanchez move into the pod?

7 A. It was the same day.

8 Q. During the discussions in the pod, was  
9 there a discussion about who was supposed to kill  
10 Mr. Sanchez?

11 A. Yeah, there was.

12 Q. Who was supposed to kill him?

13 A. The Rascon brothers.

14 Q. And I can't ask you what they said, their  
15 words, but did they have a discussion with you about  
16 Freddie Sanchez?

17 A. They did.

18 Q. What did you tell them as a result of that  
19 discussion?

20 A. If it was me, I would go do it.

21 Q. You said if it was you, you would go do  
22 it?

23 A. Yes. Because if they didn't do it, then  
24 they're going to get moved on.

25 Q. And were you aware of whether or not the

1 Rascon brothers ever did kill Freddie Sanchez?

2 A. They didn't.

3 Q. Do you know who killed Freddie Sanchez?

4 A. I do.

5 Q. Who was that person or those people?

6 A. Javier Alonso and Edward Troup.

7 Q. How do you know that?

8 A. Because they told me.

9 Q. Did they tell you they were going to do it  
10 beforehand, or did they tell you afterwards?

11 A. Afterwards.

12 Q. What did Mr. Troup tell you?

13 A. Just when it was done, he came up to my  
14 cell door, and all he said was, "Got that fucker.  
15 Fuck that rat."

16 Q. Did you know who he was referring to?

17 A. Sanchez.

18 Q. Do you remember how long it was after Mr.  
19 Sanchez was killed before his body was discovered?

20 A. I would say like for a day, I think.

21 Q. And why do you think it was that long?

22 A. He was covered up like he was asleep; made  
23 it look like, when the officers make the rounds,  
24 make it look like he's asleep.

25 Q. And were you ever able to see inside his

1 cell?

2 A. I never went down there to go look.

3 Q. Since he was there for maybe a day or so,  
4 could you tell us whether or not the pod ever began  
5 to smell?

6 A. It did.

7 Q. What did it smell like?

8 A. I can't explain it. It smelled -- it  
9 smelled awful.

10 Q. What did people in the pod do to try to  
11 cover up that smell?

12 A. Burn bread.

13 Q. And you didn't go down there. I think you  
14 showed us or told us you were on the top tier. Was  
15 Freddie Sanchez on the top tier or the bottom tier?

16 A. He was on the bottom tier.

17 Q. How did you know that Freddie Sanchez was  
18 discovered?

19 A. By the officer pretty much like screamed  
20 out loud.

21 Q. Who was the officer?

22 A. Officer Mintz.

23 Q. When he screamed out loud, did he sound  
24 pretty excited?

25 A. Surprised.



1 Q. What did he say?

2 A. He just called a code on the radio, like  
3 in a loud tone.

4 Q. What happened after he made that call?

5 A. We all got locked down. All the officers  
6 came.

7 Q. Now, did you guys have food ports in that  
8 pod?

9 A. Yes.

10 Q. Were you ever able to open them?

11 A. Yes.

12 Q. How could you open them?

13 A. Shoelace.

14 Q. Explain that to the jury, since they've  
15 haven't seen the food ports.

16 A. The other guy on the other side would put  
17 the shoelace through the opening of the food port,  
18 and I've got the string on the other side, and you  
19 jiggle the lock until the lock opens.

20 Q. I asked about the food port. Did you ever  
21 see anything through the food port? Did anyone ever  
22 show you anything?

23 A. Yes.

24 Q. Who showed you something?

25 A. Javier Alonso.

1 Q. What did he show you?

2 A. His wrists.

3 Q. What did you notice about his wrists?

4 A. He had like markings on them.

5 Q. And when you say "markings," how best can  
6 you describe them?

7 A. Like he had something wrapped real tight  
8 and just -- like how these cuffs are. You just have  
9 markings.

10 Q. So something going around his wrists that  
11 left a mark?

12 A. Yes.

13 Q. Did he seem concerned about those marks?

14 A. Yeah.

15 Q. Now, about the time or before the time  
16 that Freddie Sanchez was killed, did you ever notice  
17 anything about the cameras, what was going on with  
18 the cameras?

19 A. They were being covered.

20 Q. Who was covering the cameras?

21 A. Ruben Hernandez.

22 Q. How was he trying to cover the cameras?

23 A. With his crutch.

24 Q. Did you see any other attempts to try to  
25 cover the cameras?

1 A. A couple of times.

2 Q. What did you see on each of those  
3 occasions?

4 A. He was trying to put just a cover over the  
5 cameras.

6 Q. And why did it take more than one time?

7 A. They would fall off.

8 THE COURT: Mr. Castellano, would this be  
9 a good time for us to take our afternoon break?

10 MR. CASTELLANO: Yes, Your Honor.

11 THE COURT: All right. We'll be in recess  
12 for about 15 minutes.

13 All rise.

14 (The jury left the courtroom.)

15 THE COURT: Up here at the bench, I know  
16 there were some people -- I think it was Mr.  
17 Blackburn and others maybe -- talking about personal  
18 knowledge. But remember, there is no personal  
19 requirement, personal knowledge requirement when  
20 it's a statement under 801(d)(2). Once I determine  
21 it's a co-conspirator statement, anybody can offer  
22 it. So he doesn't have to have personal knowledge  
23 of the facts behind it. So that was the reason for  
24 that ruling.

25 All right. We'll be in recess about 15

1 minutes.

2 (The Court stood in recess.)

3 MS. HARBOUR-VALDEZ: We do have one issue  
4 before the jury comes back.

5 THE COURT: All right. I think we have  
6 all the defendants in the courtroom and an attorney  
7 for each defendant.

8 Ms. Harbour-Valdez.

9 MS. HARBOUR-VALDEZ: Your Honor, we had  
10 provided a stipulation to Ms. Armijo yesterday  
11 morning for DNA stipulation for Counts 1, 2, and 3.  
12 She told me she'd get back to me today. We haven't  
13 heard back. And the reason we raise it is because  
14 Mr. Benjamin spoke to --

15 MR. BENJAMIN: I spoke to the DNA -- I  
16 don't know what they are -- forensic person, Your  
17 Honor. She's the one who would be called to  
18 testify. And she has a vacation the week of the  
19 defense case, and so we're going to need to squeeze  
20 her in at some point in time, in the Government's  
21 case.

22 MS. HARBOUR-VALDEZ: If the stipulation --

23 THE COURT: Do you have a problem with  
24 that, Ms. Armijo? I think what they're saying is,  
25 if you don't agree to the stipulation, can they

1 present their DNA tech in your case because the  
2 person has a vacation the week of their case.

3 MS. ARMIJO: As long as it's not counted  
4 against our time, that's fine.

5 THE COURT: Can y'all work that out, try  
6 to work out a schedule so that --

7 MS. ARMIJO: Okay. The stipulation, I  
8 have some issues with some of the general  
9 statements, and that's where I actually was. I was  
10 actually talking to one of the analysts, and she  
11 agreed with me that she could not say whether she  
12 agreed with it. So what I have done is set up  
13 times -- and they don't like to talk on weekends;  
14 imagine that. So I actually have set up times to  
15 talk to them, but Eve is not available to talk to me  
16 until Monday.

17 And so I don't have any problem if we need  
18 to get her in.

19 THE COURT: All right.

20 MS. ARMIJO: But I'm still working and  
21 trying to reach a resolution.

22 THE COURT: All right. So we're going to  
23 continue to work on the stipulation; and we have an  
24 agreement that you can call the witness in the  
25 Government's case, avoid the vacation; and then

1 we'll work on squaring up on the time.

2 MS. HARBOUR-VALDEZ: Very good.

3 MR. BENJAMIN: Just for clarification,  
4 Your Honor, I inferred vacation. She didn't say  
5 "vacation." She said, "I'm out and unavailable."

6 THE COURT: All right. All rise.

7 (The jury entered the courtroom.)

8 THE COURT: All right. Mr. Gonzalez, I'll  
9 remind you that you're still under oath.

10 Mr. Castellano, if you wish to continue  
11 your direct examination of Mr. Gonzalez, you may do  
12 at this time.

13 MR. CASTELLANO: Yes, sir. Thank you.

14 THE COURT: Mr. Castellano.

15 BY MR. CASTELLANO:

16 Q. So Mr. Gonzalez, other than the statements  
17 that Mr. Troup said about getting that rat, did he  
18 say anything else to you about the murder?

19 A. No, just that.

20 Q. I also want to ask you if Mr. Troup ever  
21 made any statements about the 2001 murders out of  
22 Southern New Mexico Correctional Facility?

23 A. He said he was involved in one of the  
24 murders.

25 Q. Did he give you any details, other than

1 saying he was involved in one of the murders?

2 A. He just told me he was involved.

3 Q. I want to ask you real quickly about your  
4 drug use over the years. Can you tell us what  
5 substances you've used?

6 A. Cocaine, Suboxone, and heroin.

7 Q. How many times did you use heroin?

8 A. Not very much, because I'm not really a  
9 heroin addict. I'm more of a cocaine addict.

10 Q. And when was the last time you used any  
11 kind of controlled substances?

12 A. The last time I used Suboxone was in  
13 March.

14 Q. And why did you use in March?

15 A. All this court stuff, all stressed out.

16 Q. So were you going to be called as a  
17 witness in a separate proceeding?

18 A. I was, for sentencing.

19 Q. And did that stress you out?

20 A. It did.

21 Q. As a result, did you use Suboxone?

22 A. Yes, I did.

23 Q. Before that time, when was the last time  
24 you used controlled substances like that?

25 A. About three years.

1 Q. Why did you leave the SNM?

2 A. When?

3 Q. Why?

4 A. I left because of the last murder. I saw  
5 someone getting murdered, and I was just done with  
6 it. The person that got killed was a close friend  
7 of mine.

8 Q. Who was that person?

9 A. Javier Molina.

10 Q. And when did that happen?

11 A. In 2014.

12 Q. Were you in the same pod or a different  
13 pod as Javier Molina?

14 A. I was in a different pod.

15 Q. How did you know he got killed?

16 A. Well, the doors opened, and I followed the  
17 officers out the door, and I saw the blue door open,  
18 and I saw him on the floor getting stabbed.

19 Q. I'm showing you Government's Exhibit 281.  
20 Now, you said in 2007 you were in the blue pod. In  
21 2014 when Javier Molina was killed, which pod were  
22 you in?

23 A. Yellow pod.

24 Q. I'm circling yellow pod. Is that where it  
25 was?



1 A. Yes.

2 Q. You can touch your screen. If you can,  
3 show us how you were able to see from yellow pod to  
4 blue pod, where you saw Mr. Molina.

5 A. I don't know if I can do it.

6 Q. Let me ask you this: Is there a door like  
7 this, where I've indicated?

8 A. Yes.

9 Q. Is there a line of sight from yellow pod  
10 towards the door of blue pod?

11 A. There is. You could see.

12 Q. And what did you see when the door opened?

13 A. I seen one of the guys on -- stabbing  
14 Javier Molina.

15 Q. Who was the guy doing the stabbing?

16 A. Kreater. I don't know him by his name.

17 Q. Was that an SNM-on-SNM hit?

18 A. It was.

19 Q. Once that happened, about how long was it  
20 before you decided you were leaving the SNM?

21 A. The next day.

22 MR. CASTELLANO: May I have a moment, Your  
23 Honor?

24 THE COURT: You may.

25 MR. CASTELLANO: Thank you, Your Honor.

1 I'll pass the witness.

2 THE COURT: Thank you, Mr. Castellano.

3 Ms. Harbour-Valdez, do you have  
4 cross-examination of Mr. Gonzalez?

5 MS. HARBOUR-VALDEZ: Just briefly, Your  
6 Honor.

7 CROSS-EXAMINATION

8 BY MS. HARBOUR-VALDEZ:

9 Q. Mr. Gonzalez, I want to follow up where  
10 you left off. That was the first time you'd  
11 actually spoken to STIU, was the next day after the  
12 Javier Molina murder, right?

13 A. Yes.

14 Q. And you were actually pretty upset with  
15 the SNM at that time, weren't you?

16 A. I was upset.

17 Q. You were upset because there was someone  
18 in the pod that you didn't get along with, and you  
19 wanted permission to hit that person, right?

20 A. I did.

21 Q. And was that Lupe Urquizo?

22 A. It was.

23 Q. And you were very upset that they didn't  
24 give you permission to hit him?

25 A. I was.

1 Q. So you started giving statements in March  
2 of '14, right?

3 A. I did.

4 Q. You actually wrote out quite a long story?

5 A. I sure did.

6 Q. For the STIU. And nowhere in that  
7 statement did you mention anything about what we've  
8 heard today, did you?

9 A. I can't recall.

10 Q. Well, I've got the first one here. Would  
11 you like to see it? Would that help refresh your  
12 recollection?

13 A. Yeah.

14 MS. HARBOUR-VALDEZ: May I approach, Your  
15 Honor?

16 THE COURT: You may.

17 Q. It's 12963. And nowhere in that statement  
18 from March of '14 did you mention anything that you  
19 told us about today, did you?

20 A. No.

21 Q. And then you gave another statement, I  
22 believe a few days later, and that's when you talked  
23 about being upset with Mr. Urquizo; is that correct?

24 A. Well, I started talking about him like  
25 right away.

1 Q. With STIU right away?

2 A. Yes.

3 Q. Did STIU also inform you a few days later  
4 that they'd received a couple of kites about you?

5 A. Yeah. That's why I landed up getting  
6 locked down, is because of the kites.

7 Q. And then you went back to the North,  
8 right?

9 A. I stood in Las Cruces for a few months,  
10 and then I went to the North.

11 Q. And you were transferred to an RPP pod in  
12 the North?

13 A. I did.

14 Q. And then finally, I think you told us on  
15 direct that you had applied for the RPP in what?  
16 2014?

17 A. Yes, ma'am.

18 Q. And then you were finally accepted  
19 sometime in '15 to actually go to a different  
20 facility?

21 A. January of '15.

22 Q. So when you went into RPP, you had to  
23 provide a statement? I think you told us about that  
24 on direct.

25 A. Yes.

1 Q. And do you recall what you told the STIU  
2 investigators in that statement about what happened  
3 down at Southern in 2007?

4 A. I told them everything, everything I knew  
5 about -- what I knew about SNM.

6 Q. And did you provide a written statement  
7 that time?

8 A. I think I did both.

9 Q. And you didn't tell them what you told us  
10 here today, though, correct?

11 A. About the murder?

12 Q. Right.

13 A. I did tell the STIUs.

14 Q. Well, in your statement, it's a little bit  
15 different than what you've told us here today?

16 A. Well, the statement and me saying is  
17 different. I told the STIUs personally what  
18 happened.

19 Q. Well, I have a copy of your written  
20 statement. Would you like to review that to see if  
21 that refreshes your memory?

22 A. I already read it.

23 Q. It's a different one.

24 A. I know which one it is.

25 Q. Okay. And you disagree with me that it's

1 different than what you've said here today?

2 A. I'm not sure if I said it or not. I mean,  
3 I'm just saying that I sat down with STIU and I told  
4 them everything that I knew.

5 Q. In your written statement, did you tell  
6 them everything that you know?

7 A. I probably didn't.

8 Q. In fact, in your written statement you  
9 only said that Mr. Troup guarded the door; is that  
10 correct?

11 A. Guarded the door?

12 Q. Right.

13 A. I never said that.

14 MS. HARBOUR-VALDEZ: May I approach, Your  
15 Honor?

16 THE COURT: You may.

17 Q. I've highlighted the relevant section for  
18 you. That does, in fact, say that Edward Troup  
19 guarded the door, correct?

20 A. It does say that.

21 Q. And then you had a very long sit-down  
22 session in February of 2017, correct?

23 A. Yes.

24 Q. And that was about a -- what? --  
25 three-hour interview?

1 A. Yes.

2 Q. And you were asked a series of questions  
3 by STIU Officer Cupit?

4 A. Cupit and FBI.

5 Q. Agent Sainato from the FBI?

6 A. Right.

7 Q. And they had a questionnaire there, right,  
8 and they asked you questions off that questionnaire?

9 A. Yes.

10 Q. Right?

11 A. Yes.

12 Q. And you provided some info?

13 A. Yes.

14 Q. When that interview started, it sounded  
15 like you had gotten into some trouble in the days  
16 before that. Do you recall that?

17 A. Yes. I was in Seg.

18 Q. What is Seg?

19 A. Lockdown.

20 Q. Why were you in lockdown?

21 A. I got in trouble for threats and  
22 possession of dangerous contraband.

23 Q. And who were you threatening?

24 A. An STIU officer.

25 Q. Okay. And this was still in the RPP

1 Program?

2 A. It was.

3 Q. And that's at a separate facility, right?

4 Clayton?

5 A. In Clayton.

6 Q. Tell me a little bit about RPP. How long  
7 of a program is it before you actually complete it?

8 A. It's supposed to be an 18-month program,  
9 but it's not. It's longer.

10 Q. Okay. And it's lengthened when you have  
11 violations like you had?

12 A. Well, yeah.

13 Q. So how much time was added on to your time  
14 in the program for threatening a CO?

15 A. Just I already had finished the program,  
16 so I had to go do my Seg time. And I landed up  
17 staying in the program for an extra year so I could  
18 get the lump sum that I was supposed to be awarded.

19 Q. And what was that lump sum that you were  
20 awarded?

21 A. It was for being -- good behavior.

22 Q. How much time was taken off of the  
23 sentence?

24 A. It hasn't got taken off yet.

25 Q. Okay. Do you have any expectations of



1 what is going to be offered?

2 A. Not right now, because I've been traveling  
3 the state.

4 Q. What does that have to do with how much  
5 lump sum?

6 A. I haven't completed the program, so I have  
7 to start it over when I get there.

8 Q. Okay. I misunderstood. I thought you  
9 said you had completed the RPP Program.

10 A. Yeah, I completed it. But for me to get  
11 lump sum, I have to stay an extra 18 months, for me  
12 to get the lump sum.

13 Q. So it's complete, the program, plus 18  
14 months?

15 A. Well, yeah.

16 Q. Okay. And a question about that: My  
17 calculation, it looked like with all of your good  
18 time -- because you were sentenced to like 31 years  
19 total, right?

20 A. I was.

21 Q. And then six years was suspended, and  
22 there was some good time taken off. So it looks  
23 like you were due to be released -- I'm sure you'll  
24 correct me if I'm wrong -- 2022?

25 A. Yes.

1 Q. And so --

2 A. I still get out in 2022, because I didn't  
3 have no good time for them to take.

4 Q. I'm sorry?

5 A. I didn't have -- the good time that they  
6 took away was only four days a month, so I only lost  
7 12 days.

8 Q. So the good time they took away from you,  
9 was that for the threats to the CO?

10 A. Yes.

11 Q. And then you also had a possession of a  
12 dangerous weapon?

13 A. It wasn't a weapon. It was a tool for me  
14 to engrave on jewelry boxes.

15 Q. So contraband, though?

16 A. It was.

17 Q. Okay. So you lost your good time because  
18 of that, but you're still allowed to complete the  
19 program?

20 A. Yes.

21 Q. So you're expecting to get out with a  
22 reduction in what year?

23 A. If everything works out, in 2022.

24 Q. But it would have been 2025 without that?  
25 Is that my understanding?

1 A. If I don't get no good time, I get out in  
2 2024.

3 Q. 2024. Okay. So a pretty good benefit,  
4 four years off, correct?

5 A. Four months. Four months off your  
6 sentence for completing RPP.

7 Q. Okay. I'm sorry. I misunderstood, then.  
8 Four months off.

9 And will you complete that program at the  
10 same facility?

11 A. I hope I can.

12 Q. So in that interview in February, that  
13 very lengthy interview, I think that's some of what  
14 Mr. Castellano was asking you about today, so I  
15 don't know if I need to talk about anything there.  
16 But I do want to talk to you about another meeting  
17 that you had with the Government, and that was in  
18 March.

19 Do you recall that one, March of this  
20 year? And you entered into an agreement under  
21 what's called a Kastigar letter?

22 A. In March?

23 Q. In March of this year?

24 A. Yes.

25 Q. Why do you think you needed a Kastigar

1 letter?

2 A. I don't want to get -- it was just part of  
3 the deal that we had, you know what I mean? Like I  
4 don't want to get charged for no crimes, which I  
5 know I never did to begin with. It's just for --  
6 you know what I mean? I've been in SNM since 2000,  
7 2014, so just that's why I signed it.

8 Q. But if you've already told the STIU  
9 everything you know, you couldn't be charged now,  
10 could you?

11 A. I don't know.

12 Q. Is there something else you haven't told  
13 them, that you're worried about?

14 A. No.

15 Q. Let me ask you a question about the day in  
16 the pod. You've talked about the cameras being  
17 covered by Mr. Hernandez. That wasn't the first  
18 time the cameras had been attempted to be covered,  
19 was it?

20 A. That's the only one that I know of.

21 Q. Are you sure about that?

22 A. Yeah.

23 MS. HARBOUR-VALDEZ: No further questions,  
24 Your Honor.

25 THE COURT: Thank you, Ms. Harbour-Valdez.

1 Any other defendant? Mr. Blackburn.

2 CROSS-EXAMINATION

3 BY MR. BLACKBURN:

4 Q. Let me the start off where  
5 Ms. Harbour-Valdez finished. You said that if you  
6 complete everything you're supposed to, you could be  
7 getting out in 2022, correct?

8 A. Yes, sir.

9 Q. All right. And in March of this year you  
10 received this Kastigar letter that she was asking  
11 you about, right?

12 A. Yes.

13 Q. All right. And that Kastigar letter was  
14 given to you and your attorneys by the U.S.  
15 Attorney's Office, correct?

16 A. It was.

17 Q. And they told you that there was a  
18 possibility that you could be charged with other  
19 crimes, right?

20 A. They didn't really say that.

21 Q. Well, then, why would they give you a  
22 Kastigar letter, if you have nothing to hide?

23 A. My lawyer asked for one.

24 Q. So are you telling us from the time that  
25 you were involved in the SNM, from the time you

1 entered until 2014, you did not commit any crimes  
2 while you were with the SNM?

3 A. I didn't.

4 Q. You didn't sell no drugs, buy no drugs, do  
5 anything, you didn't stab anybody, you didn't do  
6 anything as part of the membership SNM, right?

7 A. No.

8 Q. All right. So why would you need a  
9 Kastigar letter?

10 A. Just to be on the safe side.

11 Q. Well, if you didn't do anything wrong, why  
12 do you need protection?

13 A. Just like I said, just to be on the safe  
14 side.

15 Q. So when you went to the -- is it safe to  
16 say that by going to the RPP Program and doing all  
17 of those programs, that it makes your memory better?

18 A. Not necessarily.

19 Q. Okay. And when do you think -- well, when  
20 you were in prison, how many drugs did you do?

21 A. I don't know how much I did but, I did  
22 some drugs while in prison.

23 Q. Just maybe like one line every five years  
24 or something like that?

25 A. I did a little bit more than that.

1 Q. You did drugs every day, didn't you, when  
2 you were in prison?

3 A. Every day? No.

4 Q. Well, maybe you skipped a Saturday or a  
5 Sunday, right?

6 A. Like I said, I did them.

7 Q. All right. And how did you get the drugs?

8 A. Bought them.

9 Q. Okay. So you paid for drugs? You paid  
10 for narcotics while you were in prison, right? Is  
11 it against the law to do drugs while you're in  
12 prison?

13 A. Of course.

14 Q. So I thought you said you didn't do  
15 anything wrong while you were in custody?

16 A. It's not like murdering nobody. It's just  
17 --

18 Q. Okay. So you did do something wrong,  
19 correct?

20 A. Yes.

21 Q. So you have been addicted to cocaine for  
22 how long?

23 A. Since I was 15.

24 Q. Since you were 15. And that's your drug  
25 of choice?

1 A. Yes.

2 Q. What is your second drug of choice?

3 A. Weed.

4 Q. So cocaine and weed. And are you addicted  
5 to weed also?

6 A. Not really.

7 Q. Are you an addict?

8 A. A cocaine addict.

9 Q. But you said that you haven't done -- you  
10 did drugs recently, but that was Suboxone, correct?

11 A. It was.

12 Q. Okay. So you went from cocaine to  
13 Suboxone; is that right?

14 A. Yeah.

15 Q. How often do you do Suboxone?

16 A. Like I said, I just did it that one day.

17 Q. The first time you ever did Suboxone in  
18 your life was March 1st or March 2nd because you  
19 were having to come testify at a hearing; is that  
20 right?

21 A. No. I just did that because I was all  
22 stressed out because I had to come in and do a  
23 testimony.

24 Q. So you had to testify at a trial in March,  
25 so you did drugs then. That was not the first time



1 you did Suboxone, right?

2 A. No.

3 Q. Okay. How many times did you do Suboxone?

4 A. Not a lot, because that's not my drug of  
5 choice.

6 Q. Okay. So more than ten times?

7 A. Around there.

8 Q. More than 50 times?

9 A. More than 50? No.

10 Q. And when did you start doing Suboxone?

11 A. In 2006.

12 Q. All right. And when you were in the RPP  
13 Program, are you supposed to do drugs?

14 A. No.

15 Q. And you're supposed to be drug-free. What  
16 are they going to do with the fact that you did some  
17 Suboxone last month?

18 A. They're not going to do nothing, because I  
19 wasn't in that facility.

20 Q. All right. So do you know Arturo Garcia?

21 A. I just know who he is.

22 Q. You never met him before in your life?

23 A. One time.

24 Q. Where was that?

25 A. South.

1 Q. What year was that?

2 A. Right after -- in 2007.

3 Q. 2007 in the South?

4 A. South.

5 Q. Okay.

6 A. 2007, 2008, around there.

7 Q. Can you give me a better timeframe?

8 A. I can't tell you exactly what day, but it  
9 was around that time.

10 Q. All right. So 2008? Is that what you're  
11 saying?

12 A. Around there.

13 Q. And what were you doing at the South?

14 A. Getting shipped out to the South for the  
15 Fred Dawg murder.

16 Q. So the Fred Dawg murder was in June of  
17 2007, and they shipped you up to the South  
18 immediately?

19 A. Yes.

20 Q. You weren't at the North?

21 A. We went to the North first.

22 Q. How long were you at the North?

23 A. About a week.

24 Q. All right. And then you were at the South  
25 for how long?

1 A. Twenty-six months.

2 Q. At that point in time you saw Mr. Garcia,  
3 is that right?

4 A. Yes. He was in housing unit 2-A, and I  
5 was in housing unit 2-B.

6 Q. Can you pick him out in the courtroom  
7 today?

8 A. Right there.

9 Q. Over there?

10 A. The guy with the glasses.

11 Q. How did you meet him?

12 A. By the door. Because I was a porter, so I  
13 would clean from 2-B. I would go to 2-A to go clean  
14 the pods, and that's how I met him.

15 Q. So you met him one time the entire time  
16 you were with SNM, right?

17 A. One time.

18 Q. So did you ever meet Agent Acee?

19 A. No.

20 Q. Okay. You have nothing to do with him?

21 A. No.

22 Q. The FBI -- you had nothing to do with any  
23 of the stuff that they interviewed you on; is that  
24 correct?

25 A. They just interviewed me when I was in

1 RPP.

2 Q. But not Mr. Acee, right?

3 A. No.

4 Q. The first time you met Mr. Acee was today,  
5 right?

6 A. Yes. He came and introduced himself right  
7 here.

8 Q. So the first statement that you gave, that  
9 Ms. Harbour-Valdez talked to you about, you did not  
10 mention anything in there about the issues that you  
11 talked about today in the 2007 murder, did you?

12 A. No, I didn't.

13 Q. All right. And then the second statement  
14 that you gave, you did talk a little bit about  
15 the -- with RPP, you did talk a little bit about the  
16 2007 murder, but not much, right?

17 A. No.

18 Q. All right. So then the first time that  
19 you really talked about the -- you really talked  
20 more about the 2000 murders was when you did the  
21 February of 2017 statement; is that right?

22 A. Um-hum. Yes.

23 Q. All right. And at that time, even though  
24 that was a some three-hour long interview, your  
25 discussion about what happened in 2007 was just a

1 minor part of that interview; is that correct?

2 A. Pretty much.

3 Q. Because they were asking you about stuff  
4 that goes all the way back to when you were  
5 sponsored in 2000; is that right?

6 A. They were asking me stuff before I was  
7 even born.

8 Q. Okay. Maybe they wanted to see if you did  
9 something before you were born, I guess. All right.  
10 But there was very little about 2007, right?

11 A. Yes.

12 Q. All right. And you said that you knew  
13 Fred Dawg. How did you know Fred Dawg?

14 A. By doing time with him.

15 Q. Where did you do time with him at?

16 A. Up at the North.

17 Q. How long were you at the North?

18 A. Not as long as he was. Just a few months.

19 Q. All right. Have you spent most of your  
20 last 10 years of your prison time down in Southern  
21 New Mexico?

22 A. Yes.

23 Q. Did you know he was from Roswell?

24 A. I did.

25 Q. Where are you from?

1 A. Albuquerque.

2 Q. When you gave the statement in February of  
3 2017, when you were talking about the 2007 murders,  
4 you said that Javier Rubio and Ernest Guerrero were  
5 the pod leaders at that particular time; is that  
6 correct?

7 A. They were the leaders in green pod.

8 Q. They were the leaders in green pod. Who  
9 was the leader in the blue pod?

10 A. Benjamin Clark.

11 Q. But Benjamin Clark had just gotten there,  
12 had he not?

13 A. We both got there together.

14 Q. When did you both get there together?

15 A. The beginning of 2007.

16 Q. So you and Clark, you guys showed up at  
17 the same time?

18 A. We did. We came from the South.

19 Q. So when you and Clark came down in 2007,  
20 did Clark become head of that particular pod?

21 A. He did.

22 Q. All right. And he made it very clear, did  
23 he not, with his style, of making sure that  
24 everybody in that pod knew that he was the one that  
25 was in charge, did he not?

1 A. He did.

2 Q. All right. So no one stepped out of line,  
3 right?

4 A. No.

5 Q. Because he was head honcho, right?

6 A. In that pod.

7 Q. In that pod, right. And there was no  
8 question that everybody else in that pod knew that  
9 and they had to take orders from him, correct?

10 A. Yes.

11 Q. No one passed anything around without  
12 giving it to him first, right?

13 A. Yes.

14 Q. It wasn't like you had to have meetings or  
15 anything, but you knew that -- he made it clear that  
16 he was the man in charge, right?

17 A. Yeah. I knew that.

18 Q. So you're aware of some of the rules of  
19 SNM, are you not?

20 A. Yes.

21 Q. So you know that if you become a rat or  
22 you cooperate with law enforcement, then you have an  
23 automatic green light on you, right?

24 A. Yes.

25 Q. All right. And once a green light is put

1 on somebody, then that's automatic, and it's up to  
2 the other SNM members to take charge and do whatever  
3 they need to do as it relates to that person, right?

4 A. Not necessarily just SNM; anybody that's  
5 locked up.

6 Q. Anybody that's locked up, right? But in  
7 particular SNM, right?

8 A. Yes.

9 Q. But under the circumstances, Benjamin  
10 Clark always wanted people know that he was in  
11 charge and he would be the one that would order  
12 those hits; isn't that true?

13 A. Yes.

14 Q. And, in fact, you told everybody and you  
15 told the agents that you talked to in February of  
16 2017 that it was Benjamin Clark who was the one who  
17 gave the orders and approved the hit on Freddie  
18 Sanchez; isn't that true?

19 A. Yes.

20 Q. And you also told them in 2007 -- or in  
21 your interview in February of 2017, that at the  
22 time, you thought that there was just one set of  
23 papers that ever showed up; is that right? The  
24 paperwork, right?

25 A. Yes.



1 Q. And you thought there was only one set and  
2 it came from Joe Martinez, right?

3 A. Yes, Cheech.

4 Q. From Cheech, right?

5 A. Cheech.

6 Q. All right. And that was delivered down to  
7 the facility, right?

8 A. Yes.

9 Q. All right. And then Clark put the hit on  
10 Sanchez, right?

11 A. Yeah.

12 Q. But when he -- but when Sanchez showed up,  
13 when Fred Dawg showed up, Clark wasn't even there in  
14 the pod, was he?

15 A. He got locked down the same day.

16 Q. He got locked down on purpose? Or because  
17 he did something?

18 A. I don't know what he did. He just got  
19 locked down.

20 Q. But you knew he wasn't there?

21 A. Yes.

22 Q. So he had been there for all this time,  
23 and he was in charge. Now, he was the one who saw  
24 the paperwork?

25 A. He did.

1 Q. All right. Did you see anybody give him  
2 that paperwork?

3 A. Kyle Dwyer.

4 Q. Okay. You saw? You actually saw Dwyer do  
5 that?

6 A. I seen him give him a yellow envelope.

7 Q. Okay. And tell us how that went down.  
8 How did Dwyer go about giving it to him? Was he  
9 just walking around the pod, and he was waving it up  
10 in the air?

11 A. He called Benjamin to the door, because he  
12 was on orientation.

13 Q. All right.

14 A. He gave him the paperwork.

15 Q. So he came in, Dwyer comes in. He comes  
16 in to do orientation; he has the paperwork; and he  
17 calls Clark over; and he gives him the paperwork?  
18 Right?

19 A. Yeah.

20 Q. All right. Where was Ruben Hernandez at  
21 the time?

22 A. I'm not sure where he was, but he lived  
23 downstairs next to Benjamin Clark.

24 Q. All right. So you didn't see Ruben or  
25 anybody in that area, like trying -- Dwyer trying to

1 give it to anybody else, did you?

2 A. No, because the only ones that could see  
3 it is the ones that had the keys in the pods.

4 That's it.

5 Q. So there was no issue about Dwyer trying  
6 to give it to the wrong person, right?

7 A. No, because he knew that Benjamin had the  
8 keys in blue pod.

9 Q. So because Benjamin had the keys there,  
10 then automatically he had to give them to them, and  
11 he would get in trouble if he gave it to anybody  
12 else, right?

13 A. I'm sure he would, yeah.

14 Q. But you didn't get to see the paperwork,  
15 did you?

16 A. No.

17 Q. You weren't one of the leaders there, were  
18 you?

19 A. No.

20 Q. So that wouldn't have gone to you? You  
21 would have gotten in trouble, right?

22 A. I don't know if I'd have got into trouble,  
23 but they weren't going to give it to me anyway.

24 Q. Well, Clark would have been pissed off if  
25 you saw it before he saw it, right?

1 A. Probably would have.

2 Q. Okay. But that's not the way it happened.

3 You said Dwyer gave it directly to Clark, right?

4 A. Yes.

5 Q. And then Clark passed it around?

6 A. Yes. He passed it to other guys in the  
7 other pods.

8 Q. To the other pod, right? All right. Did  
9 you see that happen?

10 A. I seen when he went down to yellow door  
11 and slide something under yellow door.

12 Q. All right. And who's in charge in yellow  
13 pod?

14 A. At the time, I can't remember.

15 Q. But when it came back around, it was clear  
16 at that point in time that Clark ordered the hit be  
17 done, correct?

18 A. He did. He said to make sure it got done.

19 Q. All right. And who did he tell that to?

20 A. He told the Rascon brothers.

21 Q. And then he got taken away, right?

22 A. He got locked down.

23 Q. Then you said that, moving forward --  
24 well, let me go back. At any point in time did you  
25 state that there was some type of smell in the pods

1 as a result of the body?

2 A. Yes, I did.

3 Q. And who did you tell?

4 A. Who did I tell that to?

5 Q. Yeah.

6 A. When I got interviewed.

7 Q. Okay. So in any of these interviews on  
8 February 22, 2017, is there -- can you point? Have  
9 you looked at that? Can you tell me where it says  
10 in here that the place smelled and you had to burn  
11 bread?

12 A. I can't recall if it's written down in  
13 there, but I know I said it.

14 Q. So those guys that were taking all these  
15 notes and took six pages worth of notes, they're  
16 pretty bad note-takers, right?

17 A. I'm not saying they're bad note-takers.

18 Q. It's nowhere in there, right?

19 A. There are over 300 questions.

20 Q. Okay.

21 A. The ones that are more important, you know  
22 what I mean?

23 Q. You told them -- but it seems pretty  
24 important that you would talk about the paperwork  
25 being passed around, wouldn't it?

1 A. Yeah.

2 Q. Have you looked at this? You didn't say  
3 it. You take my word for it? I'll show it to you.

4 A. I'll take your word for it.

5 Q. No, no. I'll show it to you.

6 A. All right.

7 MR. BLACKBURN: May I approach, Your  
8 Honor?

9 THE COURT: You may.

10 Q. Does this look like -- you've seen these  
11 before, have you not?

12 A. Yes.

13 Q. So this is the statement that you gave  
14 them February 22nd of 2017; is that correct?

15 A. Yes.

16 Q. And that's where you talked about Benjamin  
17 Clark being the leader of that pod, right?

18 A. Yes.

19 Q. And you talked a lot about all sorts of  
20 other stuff, membership rules, drug trafficking.  
21 And here's the part where we get to about Fred  
22 Sanchez, and about Ben Clark was the one who ordered  
23 the murder. Do you see anything in there that talks  
24 about the paperwork being passed around, or anything  
25 about how it smelled in there and you had to burn

1 bread or anything?

2 A. It says right there, where the paperwork  
3 is.

4 Q. Okay. It says the paperwork is delivered.  
5 Where does it say that the paperwork was passed  
6 around?

7 A. I can't see it.

8 Q. Where does it say that the body smelled so  
9 bad or the place smelled so bad that you had to burn  
10 bread to make the smell go away?

11 A. It doesn't say that.

12 Q. It doesn't say that, huh? You'd better  
13 talk to these guys that write this, huh?

14 A. What?

15 Q. Never mind.

16 So we didn't say it then, but then you  
17 have your interview in preparation for this case,  
18 right?

19 A. I did.

20 Q. All right. So you didn't have an  
21 interview in preparation for the time you testified  
22 at the other hearing, where you had to do the drugs  
23 because you were stressed out on that, did you?

24 A. No.

25 Q. They didn't come and talk to you when you

1 had to testify at that hearing, did they?

2 A. That I had to testify?

3 Q. Yeah.

4 A. I didn't testify.

5 Q. Okay. Well, there was a possibility that  
6 you were going to be called as a witness, right?

7 A. For the defense team.

8 Q. All right. But did the prosecution or did  
9 the FBI come talk to you about your testimony then?

10 A. No.

11 Q. All right. But now that you're going to  
12 be here and testify on this case, they came and  
13 talked to you, did they not?

14 A. They sure did.

15 Q. So they had left you alone for the better  
16 part of a year; and all of a sudden, about a week  
17 ago, on March 29th, they came over and talked you  
18 to, right?

19 A. A week ago? No.

20 Q. Well, March 29th. We've been here for so  
21 long, I've got the months confused at this point in  
22 time. But March 29th, you remember that, right?

23 A. Maybe they came and talked to me because  
24 they knew I wasn't going to help no defense team on  
25 it.



1 Q. All right.

2 A. Since I'm an ex-SNM Gang member.

3 Q. Did you invite them over to talk?

4 A. No.

5 Q. But you knew you were going to be called  
6 as a witness in this case, did you not?

7 A. I didn't know until they brought me to Las  
8 Cruces.

9 Q. And they brought you to Las Cruces, and  
10 they took the statement from you, right?

11 A. I got shipped out of Clayton in March of  
12 this year, on the 22nd, and then --

13 Q. Brought here?

14 A. Yes.

15 Q. You were in Clayton?

16 A. I was in Clayton.

17 Q. And you were brought here, and then they  
18 took you over, and you did a statement at the U.S.  
19 Attorney's Office; is that right?

20 A. Yes.

21 Q. Or someplace? You were here, right? All  
22 right. And at that time you met the U.S. Attorneys  
23 in this case, right?

24 A. I did.

25 Q. Okay. Because every time that you talked

1 to somebody before, whether it was when you first  
2 talked back in 2014, or February 20th of '17, you  
3 only talked to the FBI or the task force officers,  
4 correct?

5 A. Yes.

6 Q. So the first time that you ever met the  
7 prosecution was on March 29th; is that correct?

8 A. Yes.

9 Q. All right. And at that time, who did you  
10 meet with, at the time? Do you recall?

11 A. Randy and Ms. Armijo.

12 Q. Okay. So you met with Mr. Castellano and  
13 Ms. Armijo; is that correct?

14 A. Yes, sir.

15 Q. And that was the first time, right?

16 A. Yes.

17 Q. And you also had one of the FBI agents  
18 there at the time, right?

19 A. Yes.

20 Q. Do you remember what his name was?

21 A. I can't pronounce his last name.

22 Q. Okay.

23 A. Sainato or something.

24 Q. But not Mr. Acee?

25 A. No.

1 Q. And they wanted to go over with you some  
2 of the statements that you had given, did they not?

3 A. Yes.

4 Q. And they wanted to make sure that you were  
5 aware what you were going to be testifying about,  
6 and the purpose of your testimony, and how this  
7 would sort of happen when you came over, right?

8 A. Yes.

9 Q. All right. So you know that every time  
10 that you have been asked to do something, to give  
11 statements in this case, that you always know you  
12 have to be as truthful as possible, right?

13 A. Yes.

14 Q. But this time, one of the things that  
15 happened was, they showed you your statement back in  
16 February of 2017, and they asked you some questions,  
17 and you said not all of that is correct, right?

18 A. Yes, because they had wrong names.

19 Q. They had the wrong names, right?

20 A. Yes.

21 Q. And so you had to change all that around,  
22 right?

23 A. Yeah. Well, I've got to be truthful.

24 Q. Right. But one of the first things you  
25 did was, you said, "Wait, hold on, hold on. Let me

1 talk about this paperwork," right? That came down  
2 in 2007? That was one of the other things you  
3 changed, right?

4 A. That I told them let's talk about the  
5 paperwork?

6 Q. They asked you, probably. I doubt that  
7 you got to just volunteer, because that was  
8 something that they wanted to know, right?

9 A. They just talk about everything.

10 Q. All right. But how long did you talk to  
11 them?

12 A. We were there for a few hours.

13 Q. Okay. So when you did this report, when  
14 you did this interview where you talked for three  
15 hours, that was about -- in February of 2017, that  
16 was a six-page report that was single-spaced, right,  
17 that I just showed you a while ago?

18 A. That was over 300 questions.

19 Q. And then whenever you met with the U.S.  
20 Attorney's Office here just on March 29th, you  
21 talked with them for about the same amount of time,  
22 right?

23 A. We talked for a few hours.

24 Q. Okay. And it's only like two pages,  
25 right? It's only like one page, right? Have you

1 seen it? Have you seen this report?

2 A. Yeah, I think I have.

3 Q. So do you have copies of these?

4 A. No.

5 Q. Pardon me?

6 A. No.

7 Q. Did they give them to your attorney?

8 A. I'm not sure.

9 Q. Have you gone over these reports? When  
10 did you go over these reports?

11 A. Just when we were over there.

12 Q. Okay. But there was a report that was  
13 written on March 29th. Have you seen this report?

14 A. I can't remember.

15 Q. Would you recognize it?

16 MR. BLACKBURN: May I approach, Your  
17 Honor?

18 THE COURT: You may.

19 Q. Have you seen that one?

20 A. Yes.

21 Q. Okay. So the report that was written by  
22 the FBI from the interview on March 29, 2018, and  
23 dated March 30, 2018, when did you see that one?

24 A. Right now, I just seen that.

25 Q. Oh, just now?

1 A. Yes.

2 Q. Today, when I showed it to you right now,  
3 is the first time you've ever seen that, correct?

4 A. When I was over there, I seen all kinds of  
5 different types of paperwork.

6 Q. Okay.

7 A. I can't tell you exactly what paperwork I  
8 saw.

9 Q. They didn't write this report before you  
10 gave them the statement, did they?

11 A. Like I said, I seen paperwork there, and I  
12 can't recall which ones that I saw.

13 Q. All right. But when you were talking to  
14 the US Attorneys for the first time on March 29,  
15 2018, you told them that there was two copies of the  
16 paperwork on Fred Sanchez; isn't that correct?

17 A. There was.

18 Q. All right. Which is different than what  
19 you told those individuals back in February of 2017,  
20 that there was only one set of paperwork, right?

21 A. I told you, there is 300 questions that  
22 they're asking me. So whatever questions they're  
23 asking at that time, I was answering. So if they  
24 didn't bring up that question, how am I going to  
25 answer that question, if they didn't ask me?

1 Q. But they did ask you that question in  
2 2017. I just showed it to you. You said that that  
3 was the one that Fred Dawg was killed in 2007; and  
4 that Gonzalez and Joe Martinez delivered the  
5 paperwork; and Ben Clark ordered the murder.

6 You did talk about the paperwork, right?

7 A. Yeah, but I didn't -- I didn't say there  
8 was two sets. I just remember just saying about the  
9 paperwork. That was it.

10 Q. But there were two sets. That's what  
11 you're telling us now, right?

12 A. There was a few sets.

13 Q. So there was one set that you knew came  
14 from Cheech; is that right?

15 A. It came from Kyle Dwyer.

16 Q. Okay. But there were two sets? One came  
17 from Cheech, and one came from --

18 A. Yes.

19 Q. -- Kyle Dwyer, right?

20 A. Yes.

21 Q. The one that came from Cheech, you do not  
22 know where that one ended up, did you?

23 A. No.

24 Q. The one that came from Kyle Dwyer, you do  
25 know where that ended up, right?

1 A. Yes.

2 Q. But you don't know where Dwyer -- one came  
3 from Cheech, and one came from Dwyer; is that  
4 correct?

5 A. Yes.

6 Q. But the one from Cheech that you said may  
7 have come from Arturo, no one has ever seen? You  
8 don't know where that's at?

9 A. The reason why I said it came from him is  
10 because --

11 Q. Because Ben Clark told you, right?

12 A. He told me.

13 Q. So if Ben Clark is the only one that told  
14 you that, you have no other source of knowledge,  
15 other than what Ben Clark told you, because he's the  
16 one that's in charge, right?

17 A. Yes.

18 Q. And he's the one that told you how this  
19 paperwork came down, right?

20 A. Yes.

21 Q. He was the one that told you that there  
22 was two separate copies, right?

23 A. Yes.

24 Q. He was the one that told you that this  
25 came from Roswell, from issues that happened with



1 Fred Dawg as it relates to a situation --

2 A. Not from Roswell. He said it came from up  
3 North.

4 Q. But it related to a situation that  
5 happened in Roswell; is that correct?

6 A. Yes.

7 Q. But everything came from Ben Clark, the  
8 guy that's in charge and always in charge, right?

9 A. Yes, in that pod.

10 Q. In that pod. All right. Now, is this the  
11 same -- but you did see, at some point in time,  
12 Dwyer giving that to Clark?

13 A. I did.

14 Q. Without anything dealing with Ruben  
15 Hernandez, right?

16 A. That what?

17 Q. It came directly from Kyle Dwyer's pod or  
18 cell, handed to --

19 A. To Ben Clark.

20 Q. -- to Ben Clark, right?

21 A. Yes.

22 Q. Now, and you also stated that you were  
23 unaware, or Clark told you that he was unaware,  
24 because you got your information from Clark, that  
25 you were unaware who gave Dwyer the copy of that

1 paperwork, right?

2 A. Like I said, he told me that that's who he  
3 got it from, was from Arturo.

4 Q. Well, I thought he told you that the  
5 one -- that no one knows where it ended up. The one  
6 that was from Cheech was given to Cheech from  
7 Arturo, but you do not know where that ended up; but  
8 the one that Kyle Dwyer delivered to Benjamin Clark,  
9 you are not sure who gave Dwyer the copy of that  
10 paperwork; isn't that correct?

11 A. I never said that. I said that he got the  
12 paperwork from Kyle Dwyer, that came from Arturo  
13 from up North.

14 MR. BLACKBURN: May I approach the  
15 witness, Your Honor?

16 THE COURT: You may.

17 Q. Isn't it true, sir, that on March 29th,  
18 according to this document that was written by the  
19 FBI, that you said, "The other copy was carried to  
20 Southern New Mexico by Kyle Dwyer and delivered to  
21 Benjamin Clark. Gonzalez was not sure who gave  
22 Dwyer the copy of the paperwork?"

23 Isn't that what it says?

24 A. That's what it says.

25 Q. But that's not true?

1 A. No.

2 Q. Okay. So, gosh, two times in a row, they  
3 screwed this up, right?

4 A. I don't know. I'm telling you what I  
5 know.

6 Q. Okay. You did say up here that one copy  
7 was given to Cheech by Arturo, but you do not know  
8 where that one ended up, right?

9 A. I didn't.

10 Q. All right. Now, while I'm up here, does  
11 it say anything about the paperwork being passed  
12 around or anything, that you guys reviewed it,  
13 passed it around from the red pod to the yellow pod  
14 to the green pod?

15 A. No, because I didn't review it.

16 Q. Does it say anything about the place  
17 smelling up real bad and you having to burn bread?

18 A. No.

19 Q. So you didn't tell them that? Or you told  
20 them that, right?

21 A. I can't remember if I told them that, but  
22 I know I told the investigators in RPP that.

23 Q. Have you used drugs today?

24 A. No.

25 Q. So it's not the same stressful as whenever

1 you're going to be called over by a defense  
2 attorney, as opposed to being called over by --

3 A. It's stressful.

4 Q. When was the last time you used?

5 A. March.

6 Q. That was the last time?

7 A. That was the last time.

8 MR. BLACKBURN: May I have a second, Your  
9 Honor?

10 THE COURT: You may.

11 MR. BLACKBURN: Nothing further, Your  
12 Honor.

13 THE COURT: Thank you, Mr. Blackburn.

14 Any other defendants have  
15 cross-examination of Mr. Gonzalez? All right.

16 Mr. Castellano, do you have redirect of  
17 Mr. Gonzalez?

18 MR. CASTELLANO: Yes, sir.

19 THE COURT: Mr. Castellano.

20 REDIRECT EXAMINATION

21 BY MR. CASTELLANO:

22 Q. Mr. Gonzalez, when the FBI agent and a  
23 task force officer visited with you in February of  
24 2017, were you ever provided a copy of that report?

25 A. No.

1 Q. Did you ever receive any paperwork from  
2 this case at all?

3 A. Nothing.

4 Q. And when you sat down with us in March of  
5 this year, did you get a chance to then review the  
6 February 2017 paperwork?

7 A. Like I was telling the lawyer, we went  
8 over paperwork.

9 Q. And then once you reviewed the paperwork,  
10 did you notice a discrepancy in what you told them  
11 before about paperwork on Fred Sanchez?

12 A. Yes. I told that to the investigating  
13 officer that was there.

14 Q. Was that the first time you actually had a  
15 chance to look at your previous statement?

16 A. Yes.

17 Q. When you met with us in March of this  
18 year, did you know you were going to be a witness,  
19 or did we ask you at that time if you were willing  
20 to be a witness?

21 A. Well, you asked. And at the time, I  
22 didn't really want to.

23 Q. And then after we spoke, did you agree  
24 that you would be a witness?

25 A. Yes.

1 Q. When you came to court today, did you know  
2 you were coming to court?

3 A. No.

4 Q. How did you get here?

5 A. The STIUs brought me.

6 Q. They just brought you to court?

7 A. Yeah.

8 Q. Had anyone spoken to you since March of  
9 this year?

10 A. About coming to court?

11 Q. Yes.

12 A. They just said that I would be coming to  
13 court, but I didn't know when.

14 Q. Did you meet me in March of this year?

15 A. I did.

16 Q. Was that the first time you'd ever met me?

17 A. The first time.

18 Q. Was that the last time we'd spoken?

19 A. Not -- just -- until today.

20 Q. And so as a result of our discussions in  
21 March, is that when you agreed that you would be a  
22 witness in this case?

23 A. Yes.

24 Q. When you gave your statement in February  
25 of 2017, did you tell the FBI that the paperwork had

1 come from Arturo Garcia?

2 A. Yes, I did.

3 Q. And did you also tell them about the  
4 statements that Edward Troup said about Mr. Sanchez  
5 being a rat?

6 A. I did.

7 Q. What did you say about Jesse Trujillo and  
8 what he did?

9 A. He cleaned up the room.

10 Q. When we met with you in March of this  
11 year, were you promised anything?

12 A. No.

13 Q. Did you receive any benefits?

14 A. Nope.

15 Q. And actually, when we brought you from  
16 Clayton, did that actually hurt your status in the  
17 RPP Program?

18 A. It did.

19 Q. What happened?

20 A. I have to start the program all over  
21 again.

22 Q. Okay. And how close were you to finishing  
23 the program when we actually pulled you out of  
24 there?

25 A. Like I said, I was done with the program,

1 but I had to start over so I could get the lump sum.  
2 And then since I was traveling the state because of  
3 this whole case, it messed up the whole program, so  
4 now I've got to start over.

5 Q. So rather than receiving a benefit, did we  
6 actually put you behind in the program?

7 A. What was that?

8 Q. Rather than receiving a benefit, when we  
9 pulled you out of there did we actually put you  
10 behind in that program?

11 A. You did.

12 Q. And did someone at least say that they  
13 would try to contact the Corrections Department so  
14 that you wouldn't be punished from getting pulled  
15 from the program?

16 A. They said that they'll call and let them  
17 know, you know what I mean? That's what they'd do,  
18 but --

19 Q. Okay. Other than that, did anyone tell  
20 you they would try to help you in any way?

21 A. No, nothing.

22 MR. CASTELLANO: I have no further  
23 questions, Your Honor.

24 THE COURT: Thank you, Mr. Castellano.

25 All right. Mr. Gonzalez, you may step



1 down. Is there any reason that Mr. Gonzalez cannot  
2 be excused from the proceedings? Mr. Castellano?

3 MR. CASTELLANO: No, Your Honor.

4 THE COURT: How about from the defendants?  
5 Not seeing or hearing any objection, you are excused  
6 from the proceedings. Thank you for your testimony.

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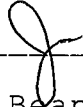
1 UNITED STATES OF AMERICA

2 STATE OF NEW MEXICO

3  
4 C-E-R-T-I-F-I-C-A-T-E

5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,  
6 Official Court Reporter for the State of New Mexico,  
7 do hereby certify that the foregoing pages  
8 constitute a true transcript of proceedings had  
9 before the said Court, held in the District of New  
10 Mexico, in the matter therein stated.

11 In testimony whereof, I have hereunto set my  
12 hand on this 20th day of May, 2018.

13  
14   
15 Jennifer Bean, FAPR, RMR-RDR-CCR  
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